

Rejections Under 35 U.S.C. §112, First Paragraph

Claims 11 and 12 stand rejected under 35 U.S.C. §112, first paragraph, for allegedly containing subject matter not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention with respect to the microorganisms. The Examiner has indicated that the rejections under 35 U.S.C. §112, first paragraph, will be withdrawn upon receipt of a statement pertaining to the availability of the strain.

Bristol-Myers Squibb Company, an assignee of the present application, has deposited biological materials under the terms of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure with the following International Depository Authority: American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209. These deposits were received by the ATCC on November 27, 2001 and given ATCC Accession Numbers PTA-3880 and 3881.

In accordance with 37 C.F.R. § 1.808, Applicants' representative gives the assurance that all restrictions on the availability to the public of the deposited materials of ATCC Accession Numbers PTA-3880 and 3881 will be irrevocably removed upon the grant of a patent based on the captioned application, except as permitted under 37 C.F.R. § 1.808(b). Applicants' representative also gives the assurances concerning the replacement or supplement of deposit, the term of the deposit, and the viability of the deposit in accordance with 37 C.F.R. §§ 1.805 - 1.807. Copies of the ATCC Deposit receipts for Accession Numbers PTA-5324, 5325, and 5326 were enclosed in the Amendments and Remarks, filed July 24, 2006.

Withdrawal of the rejection of claims 11 and 12 is respectfully requested.

Respectfully submitted,

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